

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/822,793

Applicant(s)

HORN ET AL.

Examiner

JA E. YU

Art Unit

2185

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 14 May 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3, 4, 6, 7, 9 and 11-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Sanjiv Shah/
Supervisory Patent Examiner, Art Unit 2185

Continuation of 11, does NOT place the application in condition for allowance because: Regarding claim 1, the applicant argues that the cited prior arts fail to teach "an execution status indicating the completion of said host command". However, Smyers teaches an recording status in paragraph 35. As the applicant has acknowledged, the "next available AVHDD" informs the prior recording AVHDD that the recording is executing successfully. The examiner notes that the recording command ("host command" from the claim) has already executed. Thus, the examiner does not agree with the applicant's argument that Smyers teaches initialization of the command instead of completion of the command. Further, the applicant argues that the combination of Smyers and Bean fail to teach "storing the host command until the host command has been executed and the execution of the host command has been reported to the host". However, Smyers teaches a "record instruction" in paragraph 33. As stated on page 5 of the "Office Action" dated 11/14/2007, Smyers is unclear regarding how long such "record instruction" is stored in the system, but Bean teaches erasing unneeded data after completion of an associated command in column 16, lines 14-17. Thus, the combination of Smyers and Bean clearly teaches erasing an instruction after the associated execution is completed. Moreover, the examiner notes that erasing a command/data after using it is very common in the art.

Regarding claim 4, the applicant presents a similar argument as claim 1. Further, the applicant argues that Smyers fails to teach "an aggregated host command execution status". However, the examiner notes that the execution status (refer to the examiner's response regarding claim 1 above) is passed among a plurality of AVHDDs connected in a link (Figure 4, Smyers), a AVHDD at the end of the link receives the aggregated status.

Regarding claims 7 and 9, the examiner notes that the combination of Smyers and Bean teach the limitations recited, wherein Smyers teaches recording instructions ("host command" from the claim) being executed on a plurality of AVHDDs in paragraphs 33-35 and Figure 4, and Bean teaches indicating completion of associated commands in column 16, lines 14-17.

Regarding claims 11, 15 and 17, the applicant presents a similar argument as claims 1, 7 and 9. Further, the applicant argues that the combination of Smyers and Dekoning fail to teach the "cache memory". However, since Dekoning clearly teaches a cache in Figure 4 and its associated benefits, the combination of Smyers and Dekoning is proper. Moreover, the examiner notes that including a cache memory in memory modules is very common in the art.